

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

COMMISSIONER OF INSURANCE
FOR THE STATE OF MICHIGAN

File No. 98-88265-CR

Petitioner,

Hon. James R. Giddings

v.

MICHIGAN HEALTH MAINTENANCE
ORGANIZATION PLANS, INC. a
Michigan Health Maintenance Organization,
doing business as OmniCare Health Plan

Respondent.

MARK J. ZAUSMER (P31721)
AMY M. SITNER (P46900)
Zausmer, Kaufman, August & Caldwell, P.C.
Attorneys for Petitioner
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111

PETITION FOR RATIFICATION OF CLAIMS ADJUDICATION PROCEDURES
AND APPROVAL OF ADDITIONAL PROCEDURES FOR CLAIMS ADJUDICATION

Linda A. Watters, Commissioner of the Office of Financial and Insurance Services, in her capacity as Liquidator of Michigan Health Maintenance Organization Plans, Inc., formerly known as OmniCare Health Plan, Inc. ("Michigan HMO"), through her attorneys Zausmer, Kaufman, August & Caldwell, P.C., petitions this Court for an Order ratifying the claims adjudication procedures employed to date by the Liquidator and approving additional claims adjudication procedures as specified in this Petition, and further states as follows:

1. On October 28, 2004, this Court issued an Order for Liquidating Receivership and Declaration of Insolvency ("Liquidation Order"). In the Liquidation Order, the Court established a claims filing deadline of "five months from the date of this order unless otherwise ordered by the Court." The resulting claim filing deadline was set as March 31, 2005.

2. Consistent with MCL 500.8122(2), MCL 500.8135 and MCL 500.8136, the Liquidator provided notice of the liquidation to potential claimants and required claimants to file proper proof of claim forms by the established claim filing deadline. The Liquidator also provided written instructions for filing a proof of claim, which were attached to the proof of claim form (the "Proof of Claim Instructions"). *See* Exhibit A.

3. Consistent with MCL 500.8136(2), the Proof of Claim Instructions required that all claims be submitted on the claim form developed by the Liquidator. *See* Exhibit A.

4. The Proof of Claim Instructions further stated that claims would be adjudicated in accordance with OmniCare Health Plan (in Rehabilitation) business rules in the provider manual. *See* Exhibit A.

5. The Proof of Claim Instructions stated that the Liquidator would attempt to respond to all Proof of Claim forms within ninety (90) days after receipt. *See* Exhibit A.

6. While the Proof of Claim Instructions did not specify the manner in which the Liquidator would respond to Proofs of Claim, the Liquidator's manner of response to claims has been consistent with MCL 500.8139, which requires that "If a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant or his or her attorney by first-class mail at the address shown in the proof of claim." *See* Affidavit of Deputy Liquidator Winifred W. Hicks, attached as Exhibit B, with attached sample letter of determination.

7. The Proof of Claim Instructions, consistent with MCL 500.8139, provided an appeal process in cases where a claimant objected to the Liquidator's claim determination:

If there are objections to the Liquidator's "Proof of Claim" determination, claimant must file an appeal with the Liquidator within sixty (60) days from the date the notice of determination is mailed to you. The appeal should include all additional information for reconsidering the "Proof of Claim". If the Liquidator does not alter her denial of the claim, the Liquidator shall ask the Court for a hearing as soon as practicable and shall notify the claimant not less than ten (10) nor more than thirty (30) days before the date of the hearing for Court determination of the claim. Exhibit A.

8. Consistent with MCL 500.8139, the Liquidator asks the Court to confirm by Order that any claimant that has not or does not file an objection to the Liquidator's claim determination within sixty (60) days from the date of mailing of the notice of determination "shall not further object to the determination."

9. Consistent with MCL 500.8139, the Liquidator has responded, and proposes to continue to respond, to each objection regarding a claim determination by mailing to the claimant or his or her attorney by first-class mail at the address shown in the proof of claim a letter stating the Liquidator's response to the objection.

10. If the Liquidator does not alter her denial of a claim as a result of an objection, the claimant will be required to advise the Liquidator in writing that the claimant maintains the objection and wishes to pursue further review of the matter consistent with MCL 500.8139(2). The claimant will state the basis for the request for further review and also provide any additional documentation not previously submitted in support of the claim.

11. The Liquidator proposes that prior to the formal court hearing contemplated by MCL 500.8139(2), upon request of either party, the matter be subject to non-binding facilitation, with each party paying fifty percent of the facilitator's fee.

12. The Liquidator proposes that facilitations be conducted with a facilitator chosen by each claimant from among a panel of facilitators approved by this Court. If the parties are unable to resolve the matter through facilitation, the facilitator will make a recommendation to the Court regarding settlement of the issues presented to the facilitator.

13. The Liquidator has considered the outstanding facilitators in the geographical region in which Michigan HMO and the majority of the liquidation claimants are located, and has identified three facilitators who are highly regarded for their experience, integrity, and effectiveness. The three proposed facilitators are:

Barry L. Howard, Esquire (P23458)
(Of Counsel, Lipson, Neilson, Cole, Seltzer & Garin, P.C.)
6975 Lexington, West Bloomfield, MI 48322
Tel. (248) 593-5000

Bryan H. Levy, Esquire (P25576)
Bryan H. Levy, P.C.
31800 Northwestern Highway, Suite 350
Farmington Hills, MI 48334
Tel. (248) 225-2949

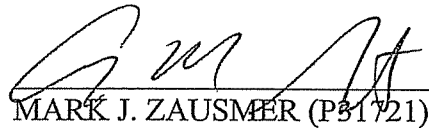
Martin G. Waldman, Esquire (P27609)
Martin G. Waldman, P.C.
7115 Orchard Lake Road, Suite 500 West Bloomfield, MI 48322
Tel. (248) 855-8900

The Liquidator asks that the Court approve use of these three facilitators, whose curricula vitae and rates of remuneration are included in the attached Exhibits C, D, E and F.

WHEREFORE, the Liquidator asks the Court to enter the attached order ratifying the claims adjudication procedures implemented to date by the Liquidator and approving the additional procedures for claims adjudication described in this Petition.

Respectfully Submitted,

ZAUSMER, KAUFMAN, AUGUST & CALDWELL, P.C.



MARK J. ZAUSMER (P31721)

AMY M. SITNER (46900)

Attorneys for Petitioner

31700 Middlebelt Road, Suite 150

Farmington Hills, MI 48334

(248) 851-4111

September 30, 2005

31700 MIDDLEBELT ROAD, SUITE 150, FARMINGTON HILLS, MI 48334-2374 • 721 N. CAPITOL, SUITE 2, LANSING, MI 48906-5163
ZAUSMER, KAUFMAN, AUGUST & CALDWELL, P.C.

ZAUSMER, KAUFMAN, AUGUST & CALDWELL, P.C.,
SUITE 150, FARMINGTON HILLS, MI 48334-2374 • 721 N. CAPITOL, SUITE 2, LANSING, MI 48906-5163

Petitioner,

MICHIGAN HEALTH MAINTENANCE
ORGANIZATION PLANS, INC., a
Michigan health maintenance organization,
doing business as OmniCare Health Plan,

Respondent.

PROOF OF MAILING

COUNTY OF OAKLAND)) ss
STATE OF MICHIGAN)

FREDA A. RUCINSKI states that on September 30, 2005, she served a copy of the Petition for Ratification of Claims Adjudication Procedures and Approval of Additional Procedures for Claims Adjudication and Order Ratifying Claims Adjudication Procedures and Approving Additional Procedures for Claims Adjudication and Proof of Mailing by enclosing copies of said documents in sealed envelopes, with prepaid, first-class postage affixed and addressed to:

Mr. Patrick J. Haddad
500 Woodward Avenue
Suite 2500
Detroit, Michigan 48226-3427

Mr. E. John Blanchard
Mr. David W. Silver
P.O. Box 30754
Lansing, Michigan 48909

Mr. Gilbert M. Frimet
Mr. Alan Rogalski
Foster, Swift, Collins & Smith, P.C.
32300 Northwestern
Suite 230
Farmington Hills, Michigan 48334

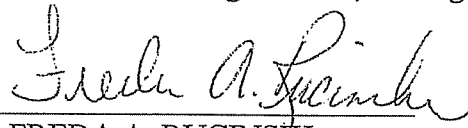
Mr. Joseph T. Aoun
Nuyen, Tomtishen and Aoun, P.C.
640 Griswold Street
Northville, MI 48167

Mr. Michael R. Bell
525 West Ottawa Street
2nd Floor
P.O. Box 30754
Lansing, Michigan 48909

Mr. Roger D. Young
Mr. Steven Susser
26200 American Drive, Suite 305
Southfield, Michigan 48034

Mr. Charles N. Raimi
Harper University Hospital Legal Affairs
3990 John R
Detroit, Michigan 48201-2018

and depositing said envelopes in the U.S. mail, in Farmington Hills, Michigan.


FREDA A. RUCINSKI

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL DISTRICT
INGHAM COUNTY

LINDA A. WATTERS, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE
SERVICES FOR THE STATE OF MICHIGAN,

Petitioner,

v

File No. 98-88265-CR
Hon. James R. Giddings

MICHIGAN HEALTH MAINTENANCE
ORGANIZATION PLANS, INC., a
Michigan health maintenance organization,
doing business as OmniCare Health Plan,

Respondent.

MARK J. ZAUSMER (P 31721)
AMY M. SITNER (P 46900)
Zausmer, Kaufman, August & Caldwell, P.C.
Attorneys for the Liquidator
31700 Middlebelt Road, Suite 150
Farmington Hills, Michigan 48334
248/851-4111

ORDER RATIFYING CLAIMS ADJUDICATION PROCEDURES
AND APPROVING ADDITIONAL PROCEDURES FOR CLAIMS ADJUDICATION

At a session of said Court, held in the City of Lansing,
County of Ingham, State of Michigan, on: _____

PRESENT: HON. _____
CIRCUIT COURT JUDGE

This matter having come before the Court upon the Liquidator's Petition for Ratification of
Claims Adjudication Procedures and Approval of Additional Procedures for Claims Adjudication,
and the Court being otherwise fully advised in the premises:

IT IS HEREBY ORDERED that the claims adjudication procedures followed to date by the
Liquidator, consistent with Chapter 81 of the Michigan Insurance Code, MCL 500.8101 *et seq.*, with

the Proof of Claim Instructions (Exhibit A to the Liquidator's Petition) that were provided to potential claimants, and with the Affidavit of Deputy Liquidator Winifred W. Hicks (Exhibit B to the Liquidator's Petition), are hereby ratified and approved.

IT IS FURTHER ORDERED that, consistent with MCL 500.8139, any claimant that has not or does not file an objection to the Liquidator's claim determination within sixty (60) days from the date of mailing of the notice of determination shall not further object to the determination.

IT IS FURTHER ORDERED that if, in response to a timely-filed objection to the Liquidator's initial claim determination, the Liquidator does not alter her denial of a claim, the claimant shall advise the Liquidator in writing that the claimant maintains the objection and wishes to pursue further review of the matter consistent with MCL 500.8139(2); the claimant shall also state the basis for the request for further review and provide any additional documentation not previously submitted in support of the claim.

IT IS FURTHER ORDERED that, prior to any formal hearing contemplated by MCL 500.139(2), upon the election of either party, a disputed claim will be submitted to non-binding facilitation, with the each party paying fifty percent of the facilitator's fee.

IT IS FURTHER ORDERED that facilitations will be conducted with each claimant's choice from among the following three facilitators, who are hereby approved by this Court:

Barry L. Howard, Esquire (P23458)
(Of Counsel, Lipson, Neilson, Cole, Seltzer & Garin, P.C.)
6975 Lexington, West Bloomfield, MI 48322
Tel. (248) 593-5000

Bryan H. Levy, Esquire (P25576)
Bryan H. Levy, P.C.
31800 Northwestern Highway, Suite 350
Farmington Hills, MI 48334
Tel. (248) 225-2949

Martin G. Waldman, Esquire (P27609)
Martin G. Waldman, P.C.
7115 Orchard Lake Road, Suite 500 West Bloomfield, MI 48322
Tel. (248) 855-8900

IT IS FURTHER ORDERED that if the parties are unable to resolve a matter following facilitation, the selected facilitator will make a recommendation to the Court regarding settlement of any issues presented to the facilitator.

CIRCUIT COURT JUDGE

31700 MIDDLEBELT ROAD, SUITE 150, FARMINGTON HILLS, MI 48334-2374 • 721 N. CAPITOL, SUITE 2, LANSING, MI 48906-5163
ZAUSMER, KAUFMAN, AUGUST & CALDWELL, P.C.

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL DISTRICT
INGHAM COUNTY

LINDA A. WATTERS, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE
SERVICES FOR THE STATE OF MICHIGAN,

Petitioner,

v

File No. 98-88265-CR
Hon. James R. Giddings

MICHIGAN HEALTH MAINTENANCE
ORGANIZATION PLANS, INC., a
Michigan health maintenance organization,
doing business as OmniCare Health Plan,

Respondent.

MARK J. ZAUSMER (P 31721)
AMY M. SITNER (P 46900)
Zausmer, Kaufman, August & Caldwell, P.C.
Attorneys for the Liquidator
31700 Middlebelt Road, Suite 150
Farmington Hills, Michigan 48334
248/851-4111

ORDER RATIFYING CLAIMS ADJUDICATION PROCEDURES
AND APPROVING ADDITIONAL PROCEDURES FOR CLAIMS ADJUDICATION

At a session of said Court, held in the City of Lansing,
County of Ingham, State of Michigan, on: Oct 12, 2005

PRESENT: HON. _____
CIRCUIT COURT JUDGE

This matter having come before the Court upon the Liquidator's Petition for Ratification of
Claims Adjudication Procedures and Approval of Additional Procedures for Claims Adjudication,
and the Court being otherwise fully advised in the premises:

IT IS HEREBY ORDERED that the claims adjudication procedures followed to date by the
Liquidator, consistent with Chapter 81 of the Michigan Insurance Code, MCL 500.8101 *et seq.*, with

the Proof of Claim Instructions (Exhibit A to the Liquidator's Petition) that were provided to potential claimants, and with the Affidavit of Deputy Liquidator Winifred W. Hicks (Exhibit B to the Liquidator's Petition), are hereby ratified and approved.

IT IS FURTHER ORDERED that, consistent with MCL 500.8139, any claimant that has not or does not file an objection to the Liquidator's claim determination within sixty (60) days from the date of mailing of the notice of determination shall not further object to the determination.

IT IS FURTHER ORDERED that if, in response to a timely-filed objection to the Liquidator's initial claim determination, the Liquidator does not alter her denial of a claim, the claimant shall advise the Liquidator in writing that the claimant maintains the objection and wishes to pursue further review of the matter consistent with MCL 500.8139(2); the claimant shall also state the basis for the request for further review and provide any additional documentation not previously submitted in support of the claim.

IT IS FURTHER ORDERED that, prior to any formal hearing contemplated by MCL 500.139(2), upon the election of either party, a disputed claim will be submitted to non-binding facilitation, with the each party paying fifty percent of the facilitator's fee.

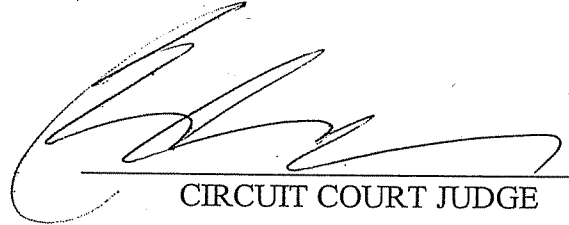
IT IS FURTHER ORDERED that facilitations will be conducted with each claimant's choice from among the following three facilitators, who are hereby approved by this Court:

Barry L. Howard, Esquire (P23458)
(Of Counsel, Lipson, Neilson, Cole, Seltzer & Garin, P.C.)
6975 Lexington, West Bloomfield, MI 48322
Tel. (248) 593-5000

Bryan H. Levy, Esquire (P25576)
Bryan H. Levy, P.C.
31800 Northwestern Highway, Suite 350
Farmington Hills, MI 48334
Tel. (248) 225-2949

Martin G. Waldman, Esquire (P27609)
Martin G. Waldman, P.C.
7115 Orchard Lake Road, Suite 500 West Bloomfield, MI 48322
Tel. (248) 855-8900

IT IS FURTHER ORDERED that if the parties are unable to resolve a matter following facilitation, the selected facilitator will make a recommendation to the Court regarding settlement of any issues presented to the facilitator.



CIRCUIT COURT JUDGE